

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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WARNER BROS. ENTERTAINMENT INC. and
J.K. ROWLING,

Plaintiffs,

-against-

RDR BOOKS and DOES 1-10,

Defendants.
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Case No. 07-CV-9667 (RPP)

**DECLARATION OF JEREMY N. WILLIAMS IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, Jeremy N. Williams, declare and state as follows:

1. I am a Senior Vice President and Deputy General Counsel for Warner Bros. Entertainment Inc. ("Warner Bros."), one of the plaintiffs in this action. In this role, I am familiar with the records supporting Warner Bros.' rights in the Harry Potter properties and with the intellectual property protection programs that Warner Bros. applies to them. Except for the facts stated on information and belief, all of the facts set forth herein are known to me personally, and if called as a witness, I could and would testify competently thereto.

2. In my capacity as Deputy General Counsel, I head the intellectual property legal department at Warner Bros., which consists of five attorneys and numerous paralegals and support staff. The role of the intellectual property department is to protect Warner Bros.' trademark and copyright assets.

Warner Bros.' Rights

3. Pursuant to an agreement with author J.K. Rowling, Warner Bros. owns the exclusive film rights to the *Harry Potter* series. Each of the *Harry Potter* films has been registered with the United States Copyright Office, including, *Harry Potter and the Sorcerer's Stone*, Serial No. PA0001063646; *Harry Potter and the Chamber of Secrets*, Serial No. PA0001105748; *Harry Potter and the Prisoner of Azkaban*, Serial No. PA0001222542; *Harry Potter and the Goblet of Fire*, Serial No. PA0001279121; and *The Harry Potter and the Order of the Phoenix*, Serial No. PA0001355547.

4. Warner Bros. is the exclusive distributor, worldwide, of these films. In addition, the sixth film, *Harry Potter and the Half-Blood Prince*, is scheduled for a worldwide release in November, 2008 and production of the seventh, *Harry Potter and the Deathly Hallows*, is confirmed, but a release date has not yet been set. Warner Bros. also engages in the licensing of the *Harry Potter* Films, including clips and images from the films.

5. Also pursuant to an agreement with Ms. Rowling, Warner Bros. owns trademark rights in *Harry Potter* and *Harry Potter*-related designations in connection with its film rights and ancillary merchandising projects (collectively, the "*Harry Potter* Marks"). Warner Bros. has received registrations for numerous *Harry Potter* Marks around the world, including in the United States. Warner Bros. has the following federal trademark registrations for HARRY POTTER: Registration Nos. 2,457,302; 2,683,060; 2,685,932; 2,506,166; 2,506,165; 2,530,755; 2,574,410; 2,526,111; 2,497,083; 2,479,341; 2,450,788; 2,450,787; 2,525,908; 2,493,484; 2,568,098; 2,568,097. Warner Bros. also has numerous other registrations and applications covering various other HARRY POTTER-formative marks.

6. In addition to the HARRY POTTER-formative Marks, Warner Bros. currently has over 3,100 *Harry Potter*-related registrations and an additional 384 pending applications in 74 countries around the world and the Community Trademark Office. These marks include, for example, character names (HARRY POTTER, RON WEASLEY, HAGRID, ALBUS DUMBLEDORE, LORD VOLDEMORT), place names (HOGWARTS, HOGSMEADE, DIAGON ALLEY, LEAKY CAULDRON), the names of magical objects (GOLDEN SNITCH, MIRROR OF ERISED, REMEMBRAL, SORTING HAT), and games (QUIDDITCH). It also includes the words HARRY POTTER in the distinctive HARRY POTTER script and the HP Logo, which includes the initials with a lightning bolt circled by a snitch. Such marks have been used by Warner Bros. in connection with books, video games, board games, other games, clothing, toys, entertainment products and many, many other items.

7. Warner Bros.' rights to the *Harry Potter* series are among its most important and valuable assets, generating significant revenue for the studio, and thereby benefiting its employees and shareholders. The *Harry Potter* series also generates enormous goodwill for Warner Bros. in the mind of the public due to the high quality of the *Harry Potter* Books and the Films we have made based on them.

Warner Bros.' Licensing

8. The popularity of the *Harry Potter* Books cannot be underestimated. Each *Harry Potter* film has enjoyed enormous success, leading to numerous requests for licenses. Pursuant to Ms. Rowling's wishes and Warner Bros.' own, independent concerns, Warner Bros. routinely turns down myriad licensing requests. Even so, it has granted licenses for use in eighteen (18) product categories, including books, video, board games, clothing, toys, entertainment products and many other items.

9. Warner Bros. applies strict licensing standards to all of its licensees and licensed products worldwide. Before any licensed product making use of the *Harry Potter* Marks is permitted to be marketed or sold, it must go through a rigorous quality control procedure. No license is approved until the proposal has been evaluated to ensure both that the potential licensee is able to produce high quality merchandise and that the use is proven to be consistent with the trademark portrayed.

10. The goodwill that these trademarks represent for Warner Bros. is immensely significant. Therefore, all licensees are issued style guides, which set forth approved and prohibited uses of the licensed trademarks, including required characteristics and details of the trademarks as well as the color in which they may be portrayed. Licensed products are continuously reviewed to ensure that the integrity of the licensed trademark is maintained, that the trademarks are used correctly and that the merchandise is of a sufficiently high quality.

Warner Bros.' Enforcement

11. Warner Bros. has instituted and maintains a long-term strategy of trademark and copyright registration, protection and enforcement regarding the *Harry Potter* series. As part of its long-term strategy to protect the *Harry Potter* series, Warner Bros. does its best to monitor the marketplace for infringing goods—a daunting task given the worldwide threat of infringement.

12. Warner Bros. has spent hundreds of thousands of dollars in the past year alone enforcing this strategy. Since 2002, we have instructed our counsel in over 40 countries to conduct over 700 enforcement actions such as raids and customs seizures with respect to infringing *Harry Potter* merchandise. In China, we investigated over 180 factories. In Brazil, we have investigated over 100 factories.

13. To effectuate Warner Bros.' strategy, we work with outside counsel, law enforcement agencies and custom officials around the world in order to protect Warner Bros.' rights in its trademarks and copyrights.

14. Warner Bros. does its best to monitor infringing activities on the Internet—a difficult task given its far-reaching scope. Warner Bros. appreciates the *Harry Potter* fan movement, and thus tries to give fans latitude to comment on the *Harry Potter* series and films, and to engage in activity such as developing a fan-based free website, writing fan fiction, etc. without objecting on intellectual property grounds. If, however, Warner Bros. learns that a fan is seeking to profit financially from the *Harry Potter* series, Warner Bros. believes the conduct can no longer be treated as simple fan activity, but rather has crossed the line into infringement.

15. Thus, for example, if a website or activity is not-for-profit and can be accessed free of charge, we will generally not take action. However, if a website is selling unlicensed merchandise, Warner Bros. will stop that activity. Even here, though, we attempt to be moderate. For instance, if a website is selling unlicensed merchandise, we will ask the operators of the website to cease and desist the sale of the unlicensed material, but otherwise will allow them to continue to operate the site.

16. Warner Bros. has worked with fan sites in order to educate fans about our policies and ensure that they respect the rights of Ms. Rowling and Warner Bros.

17. The same precepts hold true with respect to books. Warner Bros. also monitors books about the *Harry Potter* series to ensure that they do not interfere with Warner Bros.' rights and/or the rights granted to licensees. Many books have been written about the *Harry Potter* series that permissibly comment on or critique the *Harry Potter* Books and/or films. However, other publishers have attempted to merely repackage Ms. Rowling's creative copyrighted

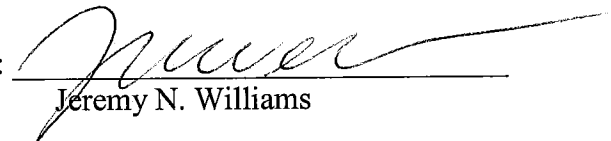
expression or use Warner Bros.' trademarks without permission. In these instances, we have worked with Ms. Rowling to contact these third parties in order to have them cease their infringing conduct. As a result, publishers of various infringing works have refrained from publishing or have altered their works so as to ensure that the publications are not infringing.

18. In essence, Warner Bros. works closely with Ms. Rowling in an effort to strike a balance between giving fans latitude and protecting our valuable intellectual property from being used without permission and in a way that dilutes the *Harry Potter* series and undermines Warner Bros.' licensing efforts and Ms. Rowling's desire to reasonably control how her creative works are used.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on January 14, 2008, at Burbank, California.

Respectfully submitted,

By:



Jeremy N. Williams